

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
CASE NO. 18-16 (Text and Map Amendments to Change Certain Zone
Names – Mapping Phase)

December 3, 2018

Testimony of Advisory Neighborhood Commission 3D05

Good Evening Members of the Zoning Commission, I am Alma Gates testifying on behalf of ANC 3D.

Overlays, like Historic Districts or Small Area Plans are special zones within the larger geographic boundaries of the city. Each possess recognized unique qualities which need to be protected and preserved.

According to the Office of Planning, “Overlays no longer exist.” The Comprehensive Plan doesn’t agree nor do residents living within those special zone districts which look to departments within the DC Government to ensure they are protected and preserved. Historic Districts have HPO; Small Area Plans have the DC Council; but, overlay districts have been let go. They continue to have some standing in ZR 16 in that they each have their own Chapter, but they lack the word “Overlay” in their zone title; and, appear to be just another zone within a Subtitle of ZR 16.

Two residential, former overlay zones, are found within the boundaries of ANC 3D. A review of Case No. 97-6, the Chain Bridge Road/University Terrace – Tree and Slope Overlay District is like reading the descriptive paragraphs in a history book. Phil Mendelson, was an ANC 3C Commissioner at the time and testified in support of the overlay. Ellen McCarthy, working in conjunction with zoning attorney Richard Nettler, wrote much of the supporting documentation, which gives meaning to the justification for establishing the overlay. For example:

Small forest tracts in urban/suburban environments are especially valuable to migrating Songbirds because they require stopover areas for feeding (refueling) during northward and southward journeys of 1,000-2,000 miles in distance. Without adequate stopover sites along the way, most migrants would perish on the journey. Some scientists believe that it is the gradual

loss of these stopover sites that possess the greatest threat to migratory birds...

The proposed overlay will provide a buffer forest for Battery Kemble Park, protect migratory birds and improve on the quality and quantity of water draining into Battery Kemble Creek and the Potomac River.

These descriptive paragraphs can only pertain to one special area of the city which needs to be protected through proper identification in the zoning regs and maps. It is not just another -R-1A Zone, it is an R-1A Overlay Zone.

The second overlay zone within the boundaries of ANC 3D is found in Case No. 95-5, the Wesley Heights Overlay District. This overlay is meant to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area. When established, the petitioners proposed that the overlay impose a limitation on the livable space in each residence. This is the only residential zone in ZR 16 with a FAR allowance; and at the time of its approval, a front yard setback requirement.

What ANC 3D is proposing – adding “Overlay District” to the Chapter title and a brief descriptive phrase under the purpose of the district - will not add any bulk to the zoning regulations. It will add clarity, definition and draw attention to the fact this zone has some special features which need special zoning attention.

Before the Zoning Commission is an opportunity to put the term “overlay” back in the titles of all former overlay zones. Adding “OD” is not onerous and this needs to be done before all that was once important about these special zones is forgotten; and, that happens very quickly. Of the ten members of ANC 3D, only a few commissioners know these zones exist and one of them is making a final ANC presentation tonight.

It is futile to believe DCRA is watching these zones carefully. Permits for properties in Wesley Heights have been issued recently which have allowed overbuilding on lots and exceedances of the overlay FAR requirements. A required front yard setback went unenforced. Trees on University Terrace in the CB/UT Overlay were moved rather than cut down, but never the less, violated the spirit of the overlay zone.

The Office of Planning, which guided the zoning rewrite, has not explained why overlays no longer exist and the Zoning Commission has pushed no further for a justification of the removal. The cookie cutter approach to the rewrite of the

residential zone districts, which will be further streamlined by the passage of Case No. 18-16, will pretty much ensure the justification for overlay districts is extinguished. Please don't let that happen.

On November 10, ANC 3D voted unanimously - 7-0-0 and:

- Urges the Zoning Commission to restore the term “overlay” to the title of each zone district previously so designated;
- Recommends the “Purpose and Intent” section for each overlay be added to the appropriate zone district by including the actual text from the 1958 Zoning Regulations for each of the overlay zone districts in ZR 16; and
- Recommends new text be added to ZR 16 for each overlay zone which links or identifies individual properties within the overlay to the appropriate section of Subtitle W.

ANC 3D's full submission is found at Exhibit No. 5 in the case log for 18-16.

On November 14, the Chain Bridge Road University Terrace Preservation Committee submitted a letter in support of ANC 3D's position (Exhibit #6).

ANC 3D encourages the Zoning Commission to use this opportunity to ensure the explicit text that identifies the purpose of each overlay district is transferred from the 1958 Regulations and included in ZR 16; and, that the zoning maps identify these areas as overlay zone districts to ensure the protections which were hard fought for by residents of these very special areas are properly identified in perpetuity.

Attachments (2)

The Office of Planning (“OP”) report dated November 26 fell outside ANC 3D's regularly scheduled meetings. Speaking as an individual Commissioner and member of the ZRR Task Force, I would like to briefly address OP's responses to ANC 3D. Streamlining the Zoning Regulations is an important step forward; but, those changes need to reinforce, not erase, the relationship of the zone to a specific zone district or geographic area; and, identify the zone as an Overlay District.

In its response to 3D, OP makes assumptions, based on its intimate familiarity with ZR 16, which do not reflect the level of familiarity or use the public or even most

ANCs have with the Zoning Regulations. The need to flip through numerous chapters and sections of the code to perhaps stumble on some direction is not helpful. The kinds of improvements, changes or additions suggested by ANC 3D should be considered and implemented as streamlining moves forward.

Using the example OP provides under **BACKGROUND** on page four of its November 26 report, ANC 3D suggests that “OD” be added as an identifier for the CB/UT residential house zone, and that an additional line be added in the development standards text box to reference the appropriate section in Subtitle W where the squares and individual lots in the overlay are found, i.e:

1958 Name	ZR 2016	Proposed 2018
Chain Bridge Road/University Terrace Overlay District (CB/UT)	Chain Bridge Road/University Terrace Residential House Zone – R21	R-1A/CBUT/OD
Zone Boundaries		W-103.1

Thank you; and, I am happy to work with OP moving forward to ensure that the streamlining of ZR 16 is uniform and complete and includes “Overlay District (OD)” in the zone identification, purpose and on the zoning maps.



THE CHAIN BRIDGE ROAD /
UNIVERSITY TERRACE PRESERVATION COMMITTEE

"Chain Bridge Road" by John Ross Key
(1837-1920), grandson of Francis Scott Key

Mr. Anthony Hood
Chair, DC Zoning Commission
441 4th Street, NW Suite 210-S
Washington, DC 20001

November 14, 2018

Dear Chairman Hood,

In reference to Case No. 18-16 (Text and Map Amendments to Change Certain Zone Names), we, the Chain Bridge Road and University Preservation Committee would like to express our full support of this initiative submitted by ANC 3D. The CBR/UT Preservation Committee is a registered non-profit organization whose mission is to preserve the natural and historic assets of the neighborhood falling within the Chain Bridge Road/University Terrace Tree and Slope Overlay District. The Committee petitioned for and supported adoption of the Overlay in 1997 and the Committee's role was recognized by the Zoning Commission in its 1999 Order in case number 97-6 adopting the Overlay provisions.

In all the years following adoption of the Overlay, the Committee has successfully worked with developers and owners to ensure that adequate building footprints and tree protection are respected, as specified in DC Zoning Regulations, most recently updated through ZR 16. While ZR 16 has kept a chapter specifying the regulations which govern our work, the removal of the term "Overlay" from the text has made them harder to enforce therefore limiting our ability to help protect and preserve the park-like setting of the area, its natural topography, mature trees, stream beds, and natural vegetation in the neighborhood. Re-introducing this specific designation would allow us to more effectively support the application of these regulations and in particular the exceptional provisions which apply to overlays. It would help clarify their purpose and would simplify the oversight of these regulations, as well as be better aligned with the purpose and intent of the zoning regulations.

We hope you will favorably consider this letter of support to the position taken by ANC 3D.

Best regards,

Bill Barnard, Co-Chair

Claudia de Colstoun, Co-Chair

Steven S. Wolf, Co-Chair

Chain Bridge Road / University Terrace Preservation Committee

Chronicling the Decline Of the Backyard Bird

Volunteers Hit the Trail In Audubon Society Effort To Monitor Populations

By V. DION HAYNES
Washington Post Staff Writer

After spotting a flock of dark-eyed juncos and some American goldfinches in a stand of sycamores yesterday, Denise Ryan pointed and screamed: "Oh, it's a yellow-bellied sapsucker! Yes!"

Ryan doesn't see sapsuckers often. She took out her pencil and marked the bird under the woodpecker family on her tally sheet.

The two-mile expedition Ryan led through the Chesapeake & Ohio Canal National Historical Park in upper Northwest Washington was part of an annual survey by the Audubon Society of the District of Columbia to count bird species along a 184.5-mile stretch between Georgetown and Cumberland. The data collected by volunteers over 10 years, the latest of which will be compiled in the spring, are being used to spot long-term population trends.

"Since 1967, there's been a 70 percent decline in common backyard birds because of habitat fragmentation" or development, said Lynn Scarlett, deputy secretary of the U.S. Department of Interior, who was among the six people participating in the census with Ryan.

Scarlett said species including grackles, meadowlarks and sparrows are on the decline. Bird counts across the country, she said, have guided the Interior Department in establishing conservation programs.

"It's important in urban areas to keep trees," she said. The department "has signed memorandums of understanding with cities to help in tree planting."

Wearing binoculars, the six on Ryan's count team followed a trail at the park, veering off occasionally to explore more rugged terrain along the banks of the Potomac River. A bird flew off in the distance.

"That looks like a mourning dove," said Mary Pfaffko, a wildlife biologist at the D.C. Department of the Environment fisheries and wildlife division, her blue hummingbird earrings dangling.

"Yes, that's a mourning dove," Scarlett said.

"There's a flock of four [Eastern] bluebirds right there," said John Beetham, a freelance writer.



PHOTOS BY SUSAN BIDDLE — THE WASHINGTON POST

Clockwise, from left, Mary Pfaffko, a wildlife biologist and D.C. Audubon Society president, shows her love of bird-watching with hummingbird earrings; a cardinal along the trail; Kevin D. Brandt, superintendent of C&O Canal National Historical Park, spots a bird overhead; and Lynn Scarlett, Denise Ryan and Karen C. McManus look for more birds to add to the tally.

